

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of

Rules and Regulations Implementing the)	CG Docket No. 02-278
Telephone Consumer Protection Act of 1991)	

PETITION FOR RECONSIDERATION

DIALAMERICA MARKETING, INC.

Arthur W. Conway
President & CEO
DialAmerica Marketing, Inc.
960 Macarthur Boulevard
Mahwah, New Jersey 07495
(201) 327-0200

August 25, 2003

DialAmerica appreciates the opportunity to submit this Petition for Reconsideration to the Federal Communications Commission in response to your report and order concerning calls made by for-profit companies on behalf of nonprofit organizations whereas there is an inducement to purchase goods or services with part of the proceeds going to the nonprofit.

We ask for further consideration of the report and order regarding messages that are “predominantly commercial in nature”. The Commission specifically referenced DialAmerica’s request to consider that the tax-exempt nonprofit exemption also applies when for-profits call, conduct a commercial transaction, and donate a percentage of the proceeds to nonprofit charitable organizations.

We believe the Commission should reconsider its opinion and define “predominantly commercial in nature”. DialAmerica is a DMA member and has been operating an extraordinary program to benefit various nonprofit organizations. Specifically, we feel the Commission did not consider the legitimacy of DialAmerica’s consumer friendly program and set too narrow of an interpretation of the rule regarding this commercial co-venture. The nonprofits involved with DialAmerica’s program are in the same situation as those that must outsource by contracting professional fundraisers.

A program like DialAmerica’s could be exempted by utilizing the following criteria:

- Donation of over 10% of the proceeds to the nonprofit organization.
- Full disclosure to the consumer of the percentage contributed to the nonprofit.
- The sale value of the product does not exceed \$100.
- The value of the product is at a competitive retail price.
- Credit card information not obtained at the point of sale.
- Offering of a 100% refund and cancellation policy.

All of these criteria are currently part of the DialAmerica program. The Commission should seriously reconsider the exemption of a program like DialAmerica's that has donated over two hundred million dollars to various nonprofit organizations over the past 30 years.